

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

ROBERT G. WYCKOFF,	: CIVIL ACTION NO. 00-2248
Plaintiff,	:
	:
	:
v.	: CHIEF JUDGE AMBROSE
METROPOLITAN LIFE INSURANCE	:
COMPANY AND KENNETH F.	:
KACZMAREK,	:
Defendants.	:

DEFENDANTS METROPOLITAN LIFE INSURANCE COMPANY'S AND KENNETH KACZMAREK'S MOTION IN LIMINE TO EXCLUDE EVIDENCE REGARDING THE PENNSYLVANIA MARKET CONDUCT EXAMINATIONS OF METROPOLITAN LIFE INSURANCE COMPANY AND RELATED DOCUMENTS

Metropolitan Life Insurance Company (“MetLife”) and Kenneth Kaczmarek hereby submit the following Motion in Limine to Exclude Evidence Regarding the Pennsylvania Market Conduct Report (the “Pennsylvania Report”) and related documents:¹

1. In Plaintiff's exhibit list, Plaintiff has identified the Pennsylvania Market Conduct Report (Plaintiffs' Proposed Exhibit 32), which is irrelevant to this case and highly prejudicial.

2. Plaintiffs' Proposed Exhibit 32 should be excluded for the reasons set forth in detail in Defendants' Brief in Support of their Motion to In Limine to Exclude Evidence Regarding the Pennsylvania Market Conduct Examinations and Related Documents, which is incorporated by reference.

¹ A copy of the Pennsylvania Report, Plaintiff's Exhibit 32, is attached as Exhibit A to Defendant's Motion. In support of the arguments set forth in detail in Defendants' Brief in Support of Their Motion to In Limine to Exclude Evidence Regarding the Pennsylvania Market Conduct Examinations and Related Documents, Defendants enclose Ex. B, Drummond v. Alia – The Royal Jordanian Airline Corp., 11 Fed. R. Evid. Serv. 1904, 1908-10 (W.D. Pa. 1982) and Ex. C Sherman v. Maleski, No. 309 M.D. 1994 (Pa. Cmwlth. Aug. 30, 1994), vacated, 664 A.2d 221 (1995).

WHEREFORE, MetLife and Kenneth Kaczmarek respectfully request that this Court grant Metropolitan Life Insurance Company's and Kenneth Kaczmarek's Motion in Limine to Exclude Evidence Regarding Pennsylvania Market Conduct Report.

Respectfully Submitted,

s/ B. John Pendleton, Jr.

B. John Pendleton, Jr.
McCARTER & ENGLISH, LLP
Four Gateway Center
100 Mulberry Street
Newark, NJ 07102
(973) 622-4444

Attorneys for Defendants
Metropolitan Life Insurance Company
and Kenneth Kaczmarek

Dated: October 3, 2006

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing document was served via the electronic case filing system, on this 3rd day of October, 2006 on the following counsel of record:

Kenneth R. Behrend, Esq.
Behrend and Ernsberger, P.C.
Union National Bank Building
306 Fourth Avenue, Suite 300
Pittsburgh, PA 15222

s/ B. John Pendleton, Jr.